

IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

THURSDAY, THE SECOND DAY OF SEPTEMBER
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE Dr. JUSTICE G.YETHIRAJULU

WRIT PETITION No. 14935 of 2004

Between:

Venkata Sai Constructions, rep by its Partner Bompally Ravinder Rao,
S/o. Narasinga Rao, aged 45 Occ : Special Class Contractor,
R/o. Plot No. 127, S.P. Colony, Tirumalagiri, Secunderabad.

..... PETITIONER

AND

- 1 Superintendent Engineer, National Highway Circle,
Roads & Buildings, Hyderabad.
- 2 Executive Engineer, Roads & Buildings, Perkit Division,
Nizamabad District.

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue a writ, Order or Direction more particularly one in the nature of Writ of Mandamus, declaring the action of the respondents by with holding and kept in deposit the seignorage charges from the petitioners final bill in respect of Agreement NO. 9/2002-2003, dt. 11-07-2002 as illegal, improper and consequently directing the respondents to release the seignorage charges on ordinary earth from the petitioner's final bill.

Counsel for the Petitioner: SMT.A.PADMA

Counsel for the Respondent No.: GP FOR ROADS & BUILDINGS

The Court at the admission stage made the following:

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ORDER:

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The petitioner is a special class contractor. He entered into an agreement with the 1st respondent for undertaking the work of a road. The petitioner contends that as per Schedule-D of agreement, he is liable to pay seignorage charges for the material like road metal stone, gravel/murum and sand.

2. The grievance of the petitioner is that the respondents deducted the seignorage charges for the ordinary earth also, and as there is no mention in the agreement that they would recover seignorage charges for the ordinary earth, the respondents are not entitled to deduct the seignorage charges for ordinary earth from out of the final bill.

3. The learned counsel for the respondents submits that the Government issued G.O.Ms.No.466, Industries & Commerce (MI) Department, dated 24.08.2000 amending the Andhra Pradesh Minor Mineral Concession Rules, 1966, issued in G.O.Ms.No.1172, Industries & Commerce Department, dated 04.09.1967 as subsequently amended through G.O.Ms.No.331, Industries & Commerce (Mines.I) Department, dated 21.06.2000, including the ordinary earth as a Minor Mineral for the purpose of collecting seignorage charges.

4. The G.O. was issued on 24.08.2000. The petitioner entered into agreement for the work on 11.07.2002. The learned counsel for the respondents, therefore, submits that since the agreement was subsequent to the G.O.Ms.No.466, the petitioner is liable for payment of seignorage charges even if there is no clause is incorporated in the agreement. Therefore, he submitted that the petitioner is not entitled for refund of the amount, deducted by the respondents towards

seignorage charges for ordinary earth.

5. The agreement dated 11.07.2002 is a bilateral agreement. The respective parties are expected to fulfill the conditions mentioned therein. Had there been a clause in the agreement that the ordinary earth is also liable for seignorage charges, the petitioner would have taken his own decision whether to enter into such agreement or not. Since the ordinary earth was not incorporated in the agreement, the petitioner gained an impression that seignorage charges will not be collected against the ordinary earth though the ordinary earth is included as Minor Mineral through the amendment of the year 2000. The respondents are not expected to collect the seignorage charges for ordinary earth when it is not incorporated in the agreement. Collecting the seignorage charges without any prior correspondence or amendment of the terms of the agreement, in pursuance of G.O.Ms.No.466, the respondents are not entitled to deduct the seignorage charges from the final bill of the petitioner. The action of the respondents in deducting the seignorage charges from the final bill is set aside.

6. Therefore, the respondents are directed to make arrangement for payment of the amount, deducted from the final bill of the petitioner towards seignorage charges for ordinary earth. If the petitioner is legally liable for any such seignorage charges, the respondents are at liberty to take necessary legal proceedings according to law.

7. The writ petition is, accordingly, disposed of.

dsr/svs ASSISTANT REGISTRAR

To:

1. The Superintendent Engineer,
National Highway Circle,
Roads & Buildings, Hyderabad

2. The Executive Engineer,
Roads & Buildings, Perkit Division,

Nizamabad District

3. Two CCs to the Government Pleader for Roads & Buildings,
High Court Buildings, Hyderabad (OUT)

4. Two CD copies.